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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF LOS ANGELES  
10

11 OMAR RODRIGUEZ; CINDY GUILLEN-  
12 GOMEZ; STEVE KARAGIOSIAN;  
ELFEGO RODRIGUEZ; AND JAMAL  
13 CHILDS,

14 Plaintiffs,

15 -vs-

16 BURBANK POLICE DEPARTMENT; CITY  
OF BURBANK; AND DOES 1 THROUGH  
17 100, INCLUSIVE.

18 Defendants.

19 BURBANK POLICE DEPARTMENT; CITY  
20 OF BURBANK,

21 Cross-Complainants,

22 -vs-

23 OMAR RODRIGUEZ, and Individual,

24 Cross- Defendant.  
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26  
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CASE NO.: BC 414 602

Assigned to: Hon. Joanne B. O'Donnell, Judge  
Dept. 37

Complaint Filed: May 28, 2009

PLAINTIFF'S OPPOSITION TO  
DEFENDANT'S MOTION *IN LIMINE* NO. 2  
FOR AN ORDER EXCLUDING EVIDENCE  
OF PURPORTED HARASSMENT BEFORE  
2008

Final Status Conference:

DATE: June 8, 2011  
TIME: 9:00 a.m.  
DEPT: 37

Trial Date: June 8, 2011

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. THIS COURT HAS REJECTED DEFENDANT'S**  
3 **STATUTE OF LIMITATIONS ARGUMENT**

4 In its order denying Defendant's first motion for summary judgment ("MSJ"), this court  
5 rejected Defendant's statute of limitations argument, stating:

6 "Plaintiff submits sufficient admissible evidence to create a triable issue of fact as to  
7 whether he was harassed within the statute of limitations or within a period justified by the  
8 continuing violation doctrine. [Citations to the record omitted.] The acts were similar and  
9 occurred with reasonable frequency beginning in 2004. Defendant's argument that plaintiff  
10 cannot rely on incidents that were not timely reported to the City has no merit. The standard  
11 is whether the employer knew or should have known of the harassment. Cal. Gov't Code  
12 §12940(j)(1). Defendant does not identify any evidence that it should not have known of the  
13 instances of harassment."

14 (Ruling On Submitted Matter, Minutes Entered 12/07/10, p.4 of 9.)

15 Defendant's attempt to revisit this same issue is transparent here. Defendant not only  
16 rehashes the **same arguments from its MSJ** (See, i.e. Defendant's MSJ, p. 2 lines 14-15: "When he  
17 reported offensive conduct, it was promptly addressed and stopped, which further defeats its  
18 claims."; Defendant's Reply on MSJ p.3 lines 10- 10 ½: "Second, the statute of limitations began to  
19 run as soon as (1) the conduct stops, and he admits the old incidents he raises stopped by 2008...")  
20 but also uses the **same evidentiary support** on that point from MSJ. (Compare Defendant's  
21 Separate Statement of Undisputed Facts No. 89 (p. 17 lines 12-14) "Between February 2007 and  
22 sometime in 2008, plaintiff heard no racial comments. (**Karagiosian depo. p. 282:5-21**)" to  
23 Preliminary Statement in Defendant's Motion in Limine #2, p. 2 lines 7-22, citing the same  
24 "**(Karagiosian depo. P. 281, ln 24 - p. 282, ln 21)**," and attaching it as Exhibit C.)

25 Defendant's motion is nothing more than an improper attempt to re-argue this issue which  
26 was previously denied. The motion should be denied.

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1                                   **II. DEFENDANT HAS FAILED TO SHOW ANY**  
2                                   **REAL PROBABILITY OF UNDUE PREJUDICE**

3           Local Rules require the moving party to include in any motion *in limine* a “statement of the  
4 specific prejudice that will be suffered by the moving party if the motion is not granted.” (Local  
5 Rule 8.92(a)(3).) The only statement in Defendants’ moving papers that comes close to meeting this  
6 requirement is in the declaration of one of Defendant’s attorneys, Philip L. Reznik, in which he states  
7 that Defendant will be unduly prejudiced because the jury might base an “award of damages on  
8 claims of alleged conduct that was perfectly legitimate. . . .” (Reznik Declaration, p.6, lines 9-10.)  
9 However, this Court has already ruled that the claims Defendant seeks to exclude in this motion are  
10 not time-barred. Thus, Defendant will suffer no undue prejudice if damages are awarded based on  
11 them.

12           Defendant has not met its burden of showing why the evidence it seeks to exclude is so  
13 prejudicial that the Court should rule on this issue now instead of ruling on evidentiary objections  
14 during trial. Defendant’s motion should therefore be denied.

15                                   **III. CONCLUSION**

16           For all the foregoing reasons, Plaintiff respectfully requests that Defendant’s motion *in limine*  
17 No. 2 be denied.

18  
19 DATED: May 25, 2011

LAW OFFICES OF RHEUBAN & GRESEN

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21 By: Steven M. Cischke  
22 Steven M. Cischke  
23 Attorneys for Plaintiff, Steve Karagiosian  
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